

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

PEDRO SILVA CHIPREZ, JOSE  
ISABEL GARCIA-MEZA,  
SAMUEL SILVA-CHIPREZ,  
JORGE RUBIO MONTERO, and  
FRANCISCO JAVIER PLAZOLA-  
CHIPRES,

Defendants.

NOS. CR-06-2121-RHW-1  
CR-06-2121-RHW-2  
CR-06-2121-RHW-4  
CR-06-2121-RHW-6  
CR-06-2121-RHW-7

**ORDER ON VARIOUS  
PRETRIAL MOTIONS**

The Court held a hearing on numerous pretrial motions in the above-captioned matter on July 20, 2010. The Government was represented by Assistant United States Attorney Robert Ellis. All Defendants were present. Defendant Pedro Chiprez was represented by George Trejo, appearing telephonically; Defendant Jose Garcia-Meza was represented by Troy Lee; Defendant Samuel Silva Chiprez was represented by Ricardo Hernandez; Defendant Jorge Rubio Montero was represented by Nicholas Marchi; and Defendant Francisco Plazola-Chipres was represented by Gregory Scott.

At the hearing, only Defendant Samuel Silva Chiprez presented oral argument on one motion: his Motion for Reconsideration (Ct. Rec. 871). The Court denied that motion for the reasons stated at the hearing. The parties identified several motions they asked to submit on the briefs. The Court rules on those motions below. The parties also identified several motions as moot, and those

1 motions are accordingly denied below. Finally, the Court ruled that any motion not  
2 specifically identified by a party at the hearing would be denied as moot.

3 **MOTIONS SUBMITTED ON THE BRIEFS**

4 *1. Defendants' Motions to Exclude Expert Testimony re: Code Words (Ct.*  
5 *Recs. 335, 647, & 653)*

6 Defendant Montero filed one of these motions in March 2007 (Ct. Rec. 335),  
7 then renewed it with a substantially identical motion in October 2009 (Ct. Rec.  
8 647). Defendant Samuel Silva Chiprez also filed a substantially identical motion  
9 (Ct. Rec. 653).

10 The Government intends to offer at trial two law enforcement officers as  
11 experts on "code words" used in the taped conversations. Defendants argue that the  
12 Government has not offered qualifications for these "experts," and request a  
13 *Daubert* hearing. The Government responds that expert testimony of this kind has  
14 previously been accepted in the Ninth Circuit, citing *United States v. Plunk*, 153  
15 F.3d 1011, 1017 (9th Cir. 1998). The Government also acknowledges that the  
16 experts will need to be qualified in court, but argues that the *Daubert* factors are  
17 inapplicable.

18 At the hearing, Defendant Samuel Silva Chiprez acknowledged that the  
19 Government has completed its expert disclosures, so any procedural objections to  
20 the admission of expert testimony are now moot. As to Defendants' substantive  
21 objections to admissibility, the Court finds that the relevance and foundation of any  
22 expert testimony cannot be determined outside of the context of trial. Because  
23 Defendants have not proffered their own experts or identified any other reason why  
24 a pretrial hearing on admissibility would be necessary, the Court will reserve ruling  
25 on this issue until trial. Therefore, these motions are denied with leave to renew.

26 *2. Defendant Montero's Motion for Severance (Ct. Rec. 337)*

27 "Co-defendants jointly charged are, *prima facie*, to be jointly tried." *United*  
28 *States v. Mariscal*, 939 F.2d 884, 885 (9th Cir. 1991). However, defendants may

1 overcome this “heavy burden” by showing that a joint trial would be so prejudicial  
2 as to require severance. *Id.* Defendant presents three arguments for severance: (1)  
3 Defendant’s co-conspirators will be unlikely to make exculpatory statements of  
4 benefit to Defendant Montero if all Defendants are joined; (2) a jury is likely to  
5 find Defendant guilty by association; and (3) there is *Bruton* problem with co-  
6 Defendants’ statements.

7 As to the first argument, Defendant does not identify which co-Defendant  
8 may testify, what that person might say, nor how exculpatory such testimony  
9 would be – all of which are required by the case law. *Mariscal*, 939 F.2d at 885-86.  
10 As for his second argument, the Ninth Circuit generally recognizes that juries are  
11 able to compartmentalize evidence against particular defendants, absent some  
12 extreme circumstances. *See, e.g., United States v. Ramirez*, 710 F.2d 535, 547 (9th  
13 Cir. 1983). Defendant does not attempt to identify any such extreme circumstances  
14 that might create a “spill-over” effect here.

15 As to Defendant’s final argument, the Government concedes that one co-  
16 Defendant’s statement creates a *Bruton* problem, but argued at the hearing that the  
17 problem could be cured by simple redaction. The Court directed the Government to  
18 redact the statement and serve it upon any affected Defendants no later than **July**  
19 **27, 2010**.

20 For the foregoing reasons, the Court denies the motion, with leave to renew  
21 if Defendant objects to the Government’s proffered redacted statement.

22 3. *Defendant Montero’s Motion to Suppress (Ct. Rec. 340)*

23 Defendant argues that the affidavit for a warrant to search his residence  
24 lacked probable cause, for two reasons: (1) it failed to establish the reliability of  
25 informants; and (2) there were material misrepresentations and omissions. The  
26 search warrant affidavit recites three separate controlled buys that implicated  
27 Defendant’s residence, 1761 Outlook Road in Outlook, Washington, as a stash  
28 house for methamphetamine. (Ct. Rec. 340-2, ¶¶ 20-22). Defendant presents a

1 conclusory argument that the affidavit failed to establish the reliability of the  
2 informants involved in these controlled buys. However, the Court finds that the  
3 reliability of the informants is irrelevant. Physical surveillance observed co-  
4 Defendant Pedro Chiprez and/or an associate travel to Defendant's residence on  
5 three separate occasions in the middle of controlled buys, under circumstances  
6 supporting an inference that Chiprez and/or his associate were retrieving or  
7 purchasing methamphetamine from someone at Defendant's residence. Even if the  
8 informants were wholly unreliable, these three instances of physical surveillance  
9 are sufficient to establish probable cause to believe that a crime (possession of  
10 methamphetamine) was being or had been committed at that residence. *See United*  
11 *States v. Bishop*, 264 F.3d 919, 926 (9th Cir. 2001) (holding that officers'  
12 corroboration of a potentially unreliable informants' information sufficed to  
13 establish probable cause).

14 Next, Defendant presents another conclusory argument in support of his  
15 request for a *Franks* hearing, arguing that the affiant recklessly failed to address  
16 the informants' reliability, and recklessly failed to provide the application that had  
17 been made in support of the wiretap. As set forth above, the Court finds the  
18 informants' reliability to be irrelevant, and therefore rejects the first part of this  
19 argument. Moreover, even if all the information adduced from the wiretap was  
20 stricken from the affidavit, the Court finds that the three instances of physical  
21 surveillance described above would suffice to support probable cause. Therefore,  
22 the Court rejects this argument as well.

23 Accordingly, the motion is denied.

24 4. *Defendant Wendy Chiprez's Motion to Suppress Overbroad Search*  
25 *Warrants (Ct. Rec. 627)*

26 Defendant Wendy Chiprez previously pleaded guilty to a misdemeanor and  
27 was sentenced. However, before entering that plea, she filed several motions that  
28 co-Defendant Samuel Silva Chiprez asked the Court to hear. Despite Defendant

1 Wendy Chiprez's absence from the case, this motion remains ripe because it  
 2 applies to the nearly identical search warrants that were issued for each residence  
 3 involved in the case. The Government argues that Wendy Chiprez lacked standing  
 4 to bring this motion, but the Court rejects that argument because each Defendant –  
 5 including the actual owners and residents of the residences in question – have  
 6 joined in this motion.

7 At issue is an Attachment B, "Items To Be Seized," which was part of each  
 8 search warrant. The Attachment directs executing officers to seize:

9 Evidence of narcotics trafficking and use of a communication device  
 10 to violate the Controlled Substances Act in violation of 21 U.S.C. §§  
 841, 844, and 846, specifically the following:

- 11 A. Documents to include but not be limited to phone bills, notes,  
 12 phone numbers, photographs, ledgers, receipts, utility records,  
 vehicle titles and registrations, calling cards, and records to  
 indicate sources of income.
- 13 B. Communication devices to include cellular type telephones,  
 14 pagers, two-way pagers, and personal data managers.
- 15 C. Drug Paraphernalia to include but not be limited to, mechanical  
 16 and electronic scales, cutting agents, and packaging materials  
 and devices.
- 17 D. Proceeds of drug sales to include but not be limited to United  
 States Currency, jewelry, personal checks, cashiers checks,  
 negotiable security, precious gems, and precious metals.
- E. Controlled Substances
- F. Firearms & Ammunition

18 (Search Warrant for 1761 North Outlook Road, Outlook Washington, Ct. Rec. 340-  
 19 2, Attachment B).

20 Defendants argue that this list of items was unconstitutionally overbroad and  
 21 fails to describe with sufficient particularity the items to be seized. Defendants rely  
 22 primarily on *United States v. Hurt*, 795 F.2d 765, 772 (9th Cir. 1986), which states:  
 23 "The purpose of particularizing the items to be seized is to insure that when the  
 24 warrant is executed, *nothing* is left to the officer's discretion" (emphasis added by  
 25 Defendants). This language appears to be drawn from an older Supreme Court  
 26 case, *Stanford v. Texas*, 379 U.S. 476, 485 (1965). However, more recent cases in  
 27 this Circuit suggest that the relevant standard is not whether the search warrant  
 28 allowed officers *any* discretion at all, but rather whether the search warrant

1 “adequately confined” officers’ discretion. *See, e.g., United States v. Young*, 420  
2 F.3d 915, 917 (9th Cir. 2005); *United States v. Reeves*, 210 F.3d 1041, 1046 (9th  
3 Cir. 2000) (search warrant must provide “meaningful guidance to the officer  
4 charged with its execution”). As Defendants acknowledge, the leading case on  
5 particularity in the Ninth Circuit is *United States v. Spilotro*, which instructs courts  
6 reviewing particularity challenges to determine “whether the warrant sets out  
7 objective standards by which executing officers can differentiate items subject to  
8 seizure from those which are not.” 800 F.2d 959, 963 (9th Cir. 1986). By its very  
9 nature, this standard recognizes that where a search warrant sets out a type or  
10 category of items to be seized, officers will have to exercise some discretion in  
11 determining whether a specific item falls into that category. Except in the rare  
12 circumstance where affiants know precisely which items should be seized, a search  
13 warrant will by necessity have to identify items by type or category. The questions  
14 then become: (1) is there probable cause to seize items of that category; (2) is the  
15 category defined with sufficient particularity; and (3) could the affiant have  
16 described the category more particularly in light of the information available to the  
17 Government at the time? *See Spilotro*, 800 F.2d at 963 (“Warrants which describe  
18 generic categories of items are not necessarily invalid if a more precise description  
19 of the items subject to seizure is not possible.”).

20 Defendants make much of the “to include but not be limited to” language  
21 repeated in the search warrants. As the Government points out, the Ninth Circuit  
22 has recognized that this type of language does not by itself render a search warrant  
23 *per se* overbroad. *See, e.g., United States v. Shi*, 525 F.3d 709, 731-32 (9th Cir.  
24 2008). Rather, “[t]he specificity required in a warrant varies depending on the  
25 circumstances of the case and the type of items involved.” *Spilotro*, 800 F.2d at  
26 963.

27 Here, Attachment B specified that the items to be seized were limited to  
28 evidence of two crimes, identified by name and statute: narcotics trafficking and

1 use of a communications device to facilitate the same. The warrant then further  
2 limited the scope of the search to six generic categories, and gave examples of the  
3 types of items that might fit in each category. Defendants do not argue that the  
4 Government generally lacked probable cause to seize items in these categories, nor  
5 do they point to any specific knowledge the Government possessed at the time that  
6 would have enabled a more precise description. Instead Defendants point to the  
7 types of items that were actually searched and seized, including the vehicle of  
8 Wendy Chiprez's stepfather (not a suspect), drivers' licenses, and naturalization  
9 documents, to support their argument that the search warrant lacked particularity.  
10 Defendants argue that the search warrants "authorized the agents to  
11 indiscriminately seize documents and photographs, even when they bore no  
12 relation to drug trafficking or even to determining sources of income, thus  
13 destroying any grounding in probable cause." (Ct. Rec. 628, p. 11). However, the  
14 search warrant specifically limited the types of documents and photographs that  
15 could be seized to those that were "[e]vidence of narcotics trafficking and use of a  
16 communication device to violate the Controlled Substances Act."

17 Like the search warrants approved in *Shi* and *Reeves*, *supra*, the search  
18 warrants here explicitly tied categories of items to evidence of specific crimes;  
19 unlike the warrants in *United States v. Whitten*, 706 F.2d 1000 (9th Cir. 1983) and  
20 *United States v. Crozier*, 777 F.2d 1376 (9th Cir. 1985), cited in Defendants' brief,  
21 the warrants here went beyond the mere mention of evidence of a particular crime  
22 to limit the search to specific types of evidence of a particular crime. This case  
23 involved a relatively large drug trafficking conspiracy, with several alleged  
24 members participating in criminal conduct over a period of years. Given the broad  
25 nature of that conspiracy, "the circumstances of the case and the type of items  
26 involved," *Spilotro*, 800 F.2d at 963, were also necessarily broad. As mentioned  
27 above, Defendants do not point to any specific knowledge in the Government's  
28 possession that would have facilitated a more precise definition. Under those



1 circumstances, the Court sees no indication from the record that a more precise  
2 definition was possible, and denies this motion accordingly.

3 5. *Defendants' Motions to Dismiss for Violation of Constitutional Right to*  
4 *Speedy Trial (Ct. Rec. 629 & 664)*

5 “The Sixth Amendment guarantees that criminal defendants shall enjoy the  
6 right to a speedy and public trial. To determine whether a defendant’s Sixth  
7 Amendment speedy trial right has been violated, we balance the following four  
8 factors: length of delay, the reason for the delay, the defendant's assertion of his  
9 right, and prejudice to the defendant.” *United States v. Mendoza*, 530 F.3d 758,  
10 762 (9th Cir. 2008) (internal citations and quotations omitted). Defendants argue  
11 that the Government’s handling of this case has violated their rights to a speedy  
12 trial, and requires dismissal of the Indictment.

13 Defendant Wendy Chiprez’s motion is partially moot because it is based in  
14 part upon a showing of prejudice specific to Wendy Chiprez herself. However, the  
15 motion’s arguments about the Government’s handling of the case apply to each  
16 Defendant; all Defendants have joined in the motion, and co-Defendant Garcia-  
17 Meza has filed a similar motion (Ct. Rec. 664).

18 The Indictment in this case was issued on July 19, 2006; the case is currently  
19 set for trial on October 4, 2010. Therefore, at the time Defendants filed this motion,  
20 the length of delay was approximately three years; now, the length has reached  
21 approximately four years. A great deal of this delay is attributable to the  
22 Government’s interlocutory appeal, which consumed approximately 28 months. As  
23 the Government points out, the remainder of the delay is attributable to extensive  
24 pretrial litigation initiated by all of the Defendants. The case has also been declared  
25 complex.

26 The bulk of Defendants’ motion is devoted to an argument that the  
27 Government negligently prosecuted its interlocutory appeal. Defendants point to  
28 the fact that the Government filed its opening appellate brief approximately one



1 month late. The Government responds that it properly sought and obtained from  
2 the Ninth Circuit a one month extension to file the brief, and that Defendants also  
3 obtained a one month extension to file their responding brief (Ct. Rec. 681, p. 4).  
4 Defendants also argue that the delay was extended by the Government's decision  
5 to file a bare prosecutor 18 U.S.C. § 3731 certification for the appeal, which did  
6 not include a preliminary showing that the excluded evidence was material. The  
7 Circuit *sua sponte* withdrew this case from submission in order to rehear an  
8 unrelated case *en banc* to decide this collateral issue. The Circuit ultimately  
9 determined that such a "bare bones" certification is sufficient. *United States v.*  
10 *W.R. Grace*, 526 F.3d 499, 502 (9th Cir. 2008). That decision was issued on May  
11 15, 2008, approximately four months after oral argument in *Chiprez*. Defendants  
12 argue that the Government took no action on the appeal for the next ten months,  
13 and that nothing happened with the appeal until defense counsel Nicholas Marchi  
14 wrote a letter to the Circuit on March 26, 2009, inquiring about the status of the  
15 case. The Circuit then resubmitted the case as of April 3, 2009, "upon counsel's  
16 request." (Slip Opinion, p. 1, n. 2). The Slip Opinion was issued on June 22, 2009.

17 Defendants argue that the Government's prosecution of this appeal evinces  
18 bad faith, or at least a reckless delay in order to gain tactical advantages, including  
19 three convictions by guilty plea obtained during the pendency of the appeal. The  
20 Government responds by arguing that this case is indistinguishable from *United*  
21 *States v. Loud Hawk*, 474 U.S. 302 (1986), in which the Supreme Court held that a  
22 46 month delay caused by the Government's interlocutory appeal did not violate  
23 defendants' right to a speedy trial. Defendants reply that *Loud Hawk* was  
24 superseded by *Doggett v. United States*, 505 U.S. 647 (1992).

25 Like *Mendoza, supra*, *Doggett* involved a delay of several years between  
26 indictment and arrest. Unlike *Loud Hawk*, it did not address a delay caused by  
27 interlocutory appeal. It is true that *Doggett* disavowed *Loud Hawk's* holding that  
28 "when defendants are not incarcerated or subjected to other substantial restrictions

on their liberty, a court should not weigh that time towards a claim under the Speedy Trial Clause.” 474 U.S. at 312. However, that holding is not relevant here because the Government does not dispute Defendants’ calculation of the length of delay. Moreover, *Doggett* is silent on *Loud Hawk*’s analysis of the delay caused by interlocutory appeal, which is directly relevant here. *Loud Hawk*’s holding on that issue remains good law. See *United States v. Frye*, 489 F.3d 201, 210 (5th Cir. 2007) (applying *Loud Hawk* to a defendant’s claim of Speedy Trial Clause violation after the Government’s interlocutory appeal); *United States v. Trueber*, 238 F.3d 79, 88 (1st Cir. 2001) (same); *Howard v. Blodgett*, 17 F.3d 394, \*2 (9th Cir. 1993) (same) (unpublished).

Therefore, *Loud Hawk* must be the Court’s starting point. There, the Supreme Court noted:

Given the important public interests in appellate review, it hardly need be said that an interlocutory appeal by the Government ordinarily is a valid reason that justifies delay. In assessing the purpose and reasonableness of such an appeal, courts may consider several factors. These include the strength of the Government’s position on the appealed issue, the importance of the issue in the posture of the case, and – in some cases – the seriousness of the crime. For example, a delay resulting from an appeal would weigh heavily against the Government if the issue were clearly tangential or frivolous. Moreover, the charged offense usually must be sufficiently serious to justify restraints that may be imposed on the defendant pending the outcome of the appeal.

474 U.S. at 315-16 (internal citations omitted). Also, a crucial factor in *Loud Hawk* was whether the record showed “bad faith or dilatory purpose on the Government’s part.” *Id.* at 316.

Here, the Court finds that the factors identified in *Loud Hawk* weigh in favor of the Government. Because it prevailed on appeal, the Government’s position on the appealed issue was obviously strong. Also, the evidence involved – all of the wiretap evidence and the fruit therefrom – was critical to the Government’s case, far from “tangential or frivolous.” As for bad faith or dilatory purpose, Defendants argue that the Government intentionally delayed the appeal in order to gain tactical advantages, but that argument depends on a conclusion that the Government’s

1 delay was *intentional*. No such conclusion is supported by the record. First, it was  
2 not unreasonable for the Government to submit a bare bones prosecutor  
3 certification, raising a collateral procedural issue on which it ultimately prevailed.  
4 That does not evince bad faith, but merely a consistent position on an issue of  
5 sufficient importance that the Circuit reheard it *en banc*. The record here could at  
6 best support a conclusion that the Government should have inquired about the  
7 status of the appeal after *W.R. Grace* was decided, sometime before Mr. Marchi  
8 wrote his letter in March of 2009. However, it was the Circuit itself, not the  
9 Government, that *sua sponte* withdrew *Chiprez* from submission, and the Court  
10 finds it was reasonable for the Government to believe that the Circuit would *sua*  
11 *sponte* resubmit the case for consideration. Therefore, the Court finds the  
12 Government's prosecution of the appeal to be reasonably diligent – not negligent,  
13 much less reckless or intentional.

14 Defendants also argue that the Government could and should have  
15 proceeded to trial on those counts not impaired by the suppression of evidence.  
16 However, the Court previously decided this issue in the Government's favor by  
17 granting a stay (Ct. Recs. 449 & 464). Moreover, it was reasonable to resolve the  
18 interlocutory appeal rather than force the Government to proceed to trial on its  
19 "imperfect case," *United States v. Loud Hawk*, 628 F.2d 1139, 1151 (9th Cir.  
20 1979), *overruled on other grounds by W.R. Grace*, 526 F.3d at 505. As for the rest  
21 of the delay in the case, Defendants point to nothing in the record that approaches  
22 the kind of negligent delay recognized in *Mendoza* and similar cases. This case was  
23 early declared complex; even at this stage of the proceedings, more than twenty-  
24 five motions remain pending, and that is only after the Court previously denied  
25 another twenty-four motions as moot. Given the extent and complexity of this  
26 pretrial litigation, the Court finds the Government's prosecution of the case to be  
27 reasonably diligent.

28 Where the Government fulfills its obligation to bring a defendant to trial by

1 pursuing the case with reasonable diligence, “the defendant does not have a speedy  
2 trial claim.” *Mendoza*, 530 F.3d at 763-64. Therefore, these motions are denied.

3 6. *Defendant Wendy Chiprez’s Motion to Dismiss for Insufficiency or for a Bill*  
4 *of Particulars (Ct. Rec. 734)*

5 At the hearing, the Government requested a brief extension of time to  
6 respond to this motion, which the Court granted without objection. Therefore, the  
7 Court reserves ruling on this motion, and the Government is directed to file a  
8 response no later than **July 23, 2010**. Defendant may file a reply brief on or before  
9 **July 30, 2010**.

10 7. *Defendant Samuel Silva Chiprez’s Motion in Limine to Exclude Chemist’s*  
11 *Testimony (Ct. Rec. 757)*

12 As discussed above, at the hearing Defendant withdrew his procedural  
13 objection to the admissibility of this expert’s testimony. Defendant also requested a  
14 *Daubert* hearing. For the reasons set forth above, the Court denies the request for a  
15 pretrial hearing and reserves ruling on admissibility until trial. Therefore, this  
16 motion is denied with leave to renew.

17 8. *Defendant Samuel Silva Chiprez’s Motion in Limine to Preclude Credibility*  
18 *Vouching and Witness Bolstering (Ct. Rec. 788)*

19 At the hearing, the Government conceded this motion and stated its intent  
20 not to elicit testimony that constitutes credibility vouching and/or witness  
21 bolstering. Therefore, this motion is granted.

22 9. *Defendant Samuel Silva Chiprez’s Motion to Dismiss for Violation of the*  
23 *Speedy Trial Act (Ct. Rec. 794)*

24 At the hearing, the Government requested an extension of three weeks to  
25 respond to this motion, and Defendants did not object. Therefore, the Court  
26 reserves ruling on this motion, and the Government is directed to file a response no  
27 later than **August 10, 2010**. Defendants may file a reply brief on or before **August**  
28 **17, 2010**.

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. The following motions are **DENIED as moot:** Ct. Recs. 333, 334, 341,  
3 342, 414, 569, 613, 622, 633, 638, 731, 788, 791, 797, 800, 823, 825, 827, 839,  
4 841, 857, and 859.

5 2. Defendants' Motions to Exclude Expert Testimony re: Code Words (Ct.  
6 Recs. 335, 647, & 653) are **DENIED with leave to renew.**

7 3. Defendant Montero's Motion for Severance (Ct. Rec. 337) is **DENIED**  
8 **with leave to renew.**

9 4. Defendant Montero's Motion to Suppress (Ct. Rec. 340) is **DENIED.**

10 5. Defendant Wendy Chiprez's Motion to Suppress Overbroad Search  
11 Warrants (Ct. Rec. 627) is **DENIED.**

12 6. Defendants' Motions to Dismiss for Violation of Constitutional Right to  
13 Speedy Trial (Ct. Rec. 629 & 664) are **DENIED.**

14 7. The Court **reserves ruling** on Defendant Wendy Chiprez's Motion to  
15 Dismiss for Insufficiency or for a Bill of Particulars (Ct. Rec. 734).

16 8. Defendant Samuel Silva Chiprez's Motion in Limine to Exclude  
17 Chemist's Testimony (Ct. Rec. 757) is **DENIED with leave to renew.**

18 9. Defendant Samuel Silva Chiprez's Motion in Limine to Preclude  
19 Credibility Vouching and Witness Bolstering (Ct. Rec. 788) is **GRANTED.**

20 10. The Court **reserves ruling** on Defendant Samuel Silva Chiprez's  
21 Motion to Dismiss for Violation of the Speedy Trial Act (Ct. Rec. 794).

22 11. Defendant Samuel Silva Chiprez's Motion to Expedite (Ct. Rec. 869) is  
23 **GRANTED.** His Motion for Reconsideration (Ct. Rec. 871) is **DENIED.**

24 ///

25 ///

1       **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
2 Order and to provide copies to counsel.

3       **DATED** this 26<sup>th</sup> day of July, 2010.

4  
5  
6                               *s/Robert H. Whaley*  
                              ROBERT H. WHALEY  
                              United States District Judge

7  
8 Q:\CRIMINAL\2006\06-2121 (Chiprez)\motions.ord.wpd  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28